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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant ROGER M. SNOW Examiner: NGUYEN, B. A. D.  
Serial No. 10/770,613 Group Art Unit: 3714  
Filed: February 2, 2004 Docket No. PA0967.ap.US  
Title: SPECIAL MULTIPLIER BONUS GAME IN PAI GOW POKER VARIANT

**MAIL STOP APPEAL BRIEF - PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Mark A. Litman  
Name

Signature

**The following documents are hereby submitted:**

- ☒ Appeal Brief to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office with Authorization to withdraw \$540.00 to cover Appeal Brief Fee
- ☒ Transmittal Sheet
- ☒ Facsimile Cover sheet

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Respectfully submitted,

ROGER M. SNOW

By His Representatives,

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Date 6 February 2009

By:

Mark A. Litman  
Reg. No. 26,390

FEB 06 2009

Page 1 of 26

Docket No.: PA0967.ap.US

## BRIEF ON APPEAL

Serial Number: 10/770,613

Filing Date: February 2, 2004

Title: SPECIAL MULTIPLIER BONUS IN PAI GOW POKER VARIANT

S/N 10/770,613PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCESIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: ROGER M. SNOW

Serial No.: 10/770,613

Filed: FEBRUARY 2, 2004

Title: SPECIAL MULTIPLIER BONUS GOW POKER VARIANT

Examiner: NGUYEN, B.A.D.

Group Art Unit: 3714

Docket No.: PA0967.ap.US

## MAIL STOP: APPEAL BRIEF - PATENTS

P.O. BOX 1450

Commissioner for Patents

Alexandria, VA22313-1450

Sir:

The U.S. Patent and Trademark Office is hereby authorized to debit any costs and fees associated with this Petition to Deposit Account No. 50-1391. Appellant(s) is submitting this single copy of the Appeal Brief in Compliance with the requirements of 37 CFR 41.37(c). Appellant requests a personal appearance at the Board of Appeals, but will defer payment of the fee until after receipt of the Examiner's Answer.

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being sent by facsimile transmission or deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP: APPEAL BRIEF - PATENTS, P.O. BOX 1450, Commissioner for Patents, Alexandria, VA 22313-1450 6 February 2009

Mark A. Litman  
Name

Signature

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| Serial No. | 10/770,613   | Group Art Unit: | 3714             |
| Filed:     | February 2, 2004                                       | Docket No.      | PA0967.ap.US     |
| Title:     | SPECIAL MULTIPLIER BONUS GAME IN PAI GOW POKER VARIANT |                 |                  |

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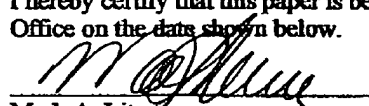
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**REAL PARTY IN INTEREST**

The real party in interest in this Appeal is the assignee of the full right, title and interest in this Application, Shuffle Master, Inc., having a place of business at 1106 Palms Airport Drive, Las Vegas, Nevada 89119-3730.

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**RELATED APPEALS AND INTERFERENCES**

The Appellant(s), the legal representative prosecuting this application and Appeal, and the assignee are not aware of any Appeals or Interferences that will directly affect or have a bearing on the Board's of Patent Appeals and Interferences decision in this pending Appeal.

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**STATUS OF CLAIMS**

Claims 1-30 have been **finally** rejected under 35 USC 103(a) as unpatentable over US Patent No. 5,863,041 (Boylan) in view of US Patent No. 4,948,134 (Suttle).

**Claim 1-30, all of the claims in this Application, are On Appeal.**

**BRIEF ON APPEAL**

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**STATUS OF AMENDMENTS**

No Amendments have been submitted to the claims in this Application during prosecution, including after the Final Rejection. All claims in this Appeal are original claims as filed.



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**SUMMARY OF CLAIMED SUBJECT MATTER**

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**CLAIMS 1 AND 12 ARE THE ONLY INDEPENDENT CLAIMS IN THIS APPEAL**

1. A method of playing a Pai Gow poker wagering card game comprising: **[Page 8, lines 2-3]**
  - a. Players wagering on a Pai Gow game; **[Page 9, lines 9-10]**
  - b. Players placing either an optional or mandatory wager against a pay table on a separate poker-type game that uses a best five-card hand from each player's hand; **[Page 9, lines 11-18]**
  - c. dealing seven-card hands from a set of cards to multiple player positions and one dealer position; **[Page 16, lines 1-5]**
  - d. resolving the game of Pai Gow poker; **[Page 8, lines 13-15]**
  - e. forming best five-card poker hands for at least each player having placed the wager against the pay table; **[Page 9, lines 11-18]**
  - f. resolving wagers with players who have placed the optional wager when that player's best five-card poker hand equals or exceeds a predetermined rank; and **[Page 9, lines 11-18]**
  - g. providing an additional award to players who have placed the optional wager i) when that player's best five-card poker hand equals or exceeds a predetermined rank and ii) when a best five-card hand for the dealer is equal to or less than a predetermined rank. **[Page 9, lines 23-28]**
  
12. A method of playing a Pai Gow poker wagering card game comprising: **[Page 8, lines 2-3]**
  - a. Players wagering on a Pai Gow game; **[Page 9, lines 9-10]**
  - b. Players placing an optional wager on a separate poker-type game that uses best five-card hands from player cards; **[Page 9, lines 11-18]**
  - c. dealing seven-card hands to six player positions and one dealer position; **[Page 16, lines 1-5]**

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- d. resolving the game of Pai Gow poker; [Page 8, lines 13-15]
  - e. comparing each best five-card poker hand made from player cards against a pay table for predetermined hand ranks; [Page 9, lines 11-18]
  - f. paying players who have both placed the additional wager and provided hands of at least the predetermined rank according to the pay table and rules of the separate poker-type game played with best five-card hands of the players; and [Page 9, lines 11-18]
  - g. if a best 5-Card hand for the dealer from the dealer's Pai Gow cards is equal to or less than a predetermined rank, increasing the amount of payment to players from f). [Page 9, lines 23-28]

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**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

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Solely for the purposes of expediting this Appeal and complying with the requirements of 37 C.F.R. 1.192(c)(7), the following grouping of claims is presented. This grouping is not intended to constitute any admission on the record that claims within groups may or may not be independently asserted in subsequent litigation or that for any judicial determination other than this Appeal, the claims may or may not stand by themselves against any challenge to their validity or enforceability.

**The sole ground of rejection in the present application is that Claims 1-30 have been finally rejected under 35 USC 103(a) as unpatentable over US Patent No. 5,863,041 (Boylan) in view of US Patent No. 4,948,134 (Suttle).**

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**ARGUMENT**

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- 1) Claims 1-30 have been **finally** rejected under 35 USC 103(a) as unpatentable over US Patent No. 5,863,041 (Boylan) in view of US Patent No. 4,948,134 (Suttle).

**Response to Examiner's Comments Made in the Final Rejection**

The Examiner has provided helpful comments on pages 6 and 7 of the Final Office Action that explain the position of the PTO based on responses to arguments previously provided by Applicants. It is believed that these comments can be fairly summarized as follows:

- a. Boylan is asserted to teach every element of the claimed subject matter except for:
  - i. i) providing an additional award to players who have placed an additional wager (e.g., Play wager after placing the Ante wager); and
  - ii. Requiring the Dealer hand to be equal to or less than a predetermined rank **to increase the payout to a player making this wager.**
- b. Suttle is asserted to teach i) and ii); and
- c. It then is asserted to be obvious to combine the Suttle steps of i) and ii) into the Boylan game to provide a player with more winning chances.

At least one major problem with this analysis is that Suttle does not teach the recited step of "...ii) when a best five-card hand for the dealer is equal to or less than a predetermined rank." **Without that teaching, the rejection is fatally flawed.**

Suttle actually teaches providing a payout on a Play wager **ONLY when the Dealer hand equals or EXCEEDS a minimum rank.** The play in Suttle awards additional amounts only when the Player's hand is better than at particular ranked hand of the dealer, usually A-K or better. This in effect lets the Dealer fold against the Play wager if the dealer hand has a very low chance of winning against a player hand and the player would be paid on multiple wagers (the Ante and Play wager).

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The presently claimed steps require an opposite effect and opposite rule of play.

In the claimed subject matter on this Appeal:

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